

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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SERIAL NO.: 10/535,713 ART UNIT: 3643

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TITLE: METHOD AND APPARATUS FOR DETECTING MASTITIS

Amendment A: REMARKS

Upon entry of the present amendments, previous Claims 1 - 20 have been canceled and new Claims 21 - 28 substituted therefor. Reconsideration of the rejections, in light of the forgoing amendments and present remarks, is respectfully requested. The present amendments have been entered for the purpose of placing the claim language into a more proper U.S. format.

In the Office Action, Claims 1 - 5 were rejected under 35 U.S.C. § 102(b) as anticipated by the Knight European patent. Claims 1 and 6 were also rejected under 35 U.S.C. § 102(b) as anticipated by the Aerojet British patent. Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Aerojet British patent. Claim 8 was rejected as being obvious over the Aerojet British patent in view of the Knight European patent. The drawings were objected to under 37 C.F.R. 1.84(p)(5) because they include a reference character not mentioned in the description. The specification was also objected to because of an informality.

As an overview to the present reply, Applicant has revised original independent Claim 1 in the form of new independent Claim 21. New independent Claim 21 expresses the original limitations but expresses such limitations in a more proper U.S. format, including proper antecedent bases and proper structural interrelationships throughout. Any indefinite terminology found in the previous claim language has been corrected herein. In particular, new independent Claim 21 indicates that the "sample of milk" is an "unfiltered liquid" sample of the milk.

Relative to the prior art Knight patent, the Knight European patent discloses a method of analyzing particulate matter extracted from a sample of biological fluids, such as milk. The fluid is passed through a filter. This filter is configured to retain particles, such as leucocytes, platelets, or bacteria, which are present in the sample. The retained particulate matter is then reacted with a luminescent material, such as a luminol. The resulting light output is then measured.

New independent Claim 21 herein specifies that an "unfiltered liquid sample of the milk" is reacted with a light-amplifying compound. As such, the particles extracted from the milk, such as in the Knight European patent, would not constitute "an unfiltered liquid sample of the milk" as in independent Claim 21. As such, independent Claim 21 is not anticipated by the Knight European patent.

It is important to note that an integral part of the method of the Knight European patent is the filtering of the particulate matter from the biological fluid sample. There is no indication in the Knight European patent that this step of the process could possibly be optional. As such, the present method, in which filtering is not required, is inventive over the teachings of the Knight European patent.

The Aerojet British patent discloses a method of accessing the bacterial content of a biological fluid sample involving mixing a sample of the fluid with a reagent "capable of reacting with the bacteria in the sample fluid" (see page 3, lines 20 - 21) to emit light and then measuring the resulting light emission. In contrast, independent Claim 21 specifies that the reagent reacts with a substance produced by cells of the animal in response to infection in order to emit light. As is well known, bacteria cause infection. Bacteria are not produced by cells of the animal in response to infection. As such, Applicant respectfully contends that the Aerojet British patent does not anticipate independent Claim 21.

The method disclosed in the Aerojet British patent relates exclusively to a method of determining the bacterial content of a fluid sample. As such, there would be no motivation for a person with ordinary skill in the art to replace the reagent disclosed in this British patent, which reacts with bacteria fluid sample, with a reagent which reacts with a substance produced by cells of the animal in response to infection. As such, Applicant respectfully contends that the present invention would not be obvious over the teachings of the Aerojet British patent.

Dependent Claims 22 - 28 corresponds to the limitations of previous dependent Claims 2 - 8.

Applicant has revised Figure 2 herein so as to properly indicate the "auxiliary milk conduit 30" and the "supply of reagent 28". It appears that in the specification the supply of reagent was improperly indicated with the reference numeral "30". This should have been reference numeral "28". Additionally, the auxiliary milk conduit "30" is improperly indicated in the drawings with reference numeral "28". This has been revised in the Replacement Sheet of the drawings.

Based upon the foregoing analysis, Applicant contends that independent Claim 21 is now in proper condition for allowance. Additionally, those claims which are dependent upon Claim 21 should also be in condition for allowance. Reconsideration of the rejections and allowance of the claims at an early date is earnestly solicited. Since no new claims have been added above those originally paid for, no additional fee is required.

June 17, 2008	Respectfully submitted,
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